

AN ACT relating to promise zone tax incentives.

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

☐ Section 1. KRS 139.570 is amended to read as follows:

- (1) (a) For reimbursement of the cost of collecting and remitting the tax, the seller shall deduct on each return one and three-quarters percent (1.75%) of the first one thousand dollars (\$1,000) of tax due and one and one-half percent (1.5%) of the tax due in excess of one thousand dollars (\$1,000), provided the amount due is not delinquent at the time of payment.†

~~(b) —~~†The total reimbursement allowed for each seller in any reporting period shall not exceed fifty dollars (\$50).

~~(b)†(2)†~~ Notwithstanding paragraph (a) of this subsection~~†(1) of this section~~, the rate of compensation for taxes collected or returns filed by certified service providers and other model sellers participating in the agreement as defined in KRS 139.781 shall be determined according to the terms of the agreement as provided in KRS 139.789(7).

(2) (a) Notwithstanding subsection (1) of this section, effective January 1, 2018, through December 31, 2021, if the seller:

1. Had annual gross receipts of three million dollars (\$3,000,000) or less in the immediately preceding calendar year; and

2. Is located in any county within the promise zone;

the seller may deduct an amount of compensation in any reporting period equal to the amount of tax due.

(b) As used in this subsection, "promise zone" means the counties of Bell, Breathitt, Boyd, Carter, Clay, Elliott, Floyd, Harlan, Jackson, Johnson, Knott, Knox, Laurel, Lawrence, Lee, Leslie, Letcher, Lincoln, Martin, Magoffin, McCreary, Morgan, Owsley, Pike, Perry, Pulaski, Rockcastle, Rowan, Wayne, and Whitley.

- (c) The purpose of this subsection is to provide incentives for sellers currently located in the promise zone to continue to operate in the promise zone and for new sellers to locate within the promise zone.
- (d) Notwithstanding KRS 131.190, beginning March 1, 2019, and annually thereafter as long as the compensation is allowed under this subsection, the department shall report to the Legislative Research Commission:
1. The total number of businesses claiming the compensation allowed under this subsection by calendar year;
 2. The total amount of compensation claimed; and
 3. The total number of businesses and the total amount of compensation claimed for each county, based on the location of the business submitting the return.

□SECTION 2. A NEW SECTION OF KRS CHAPTER 141 IS CREATED TO READ AS FOLLOWS:

(1) As used in this section:

- (a) "Promise zone" means the counties of Bell, Breathitt, Boyd, Carter, Clay, Elliott, Floyd, Harlan, Jackson, Johnson, Knott, Knox, Laurel, Lawrence, Lee, Leslie, Letcher, Lincoln, Martin, Magoffin, McCreary, Morgan, Owsley, Pike, Perry, Pulaski, Rockcastle, Rowan, Wayne, and Whitley;
- (b) "Qualified employee" means a full-time employee who reports to or is directed from a facility operating within the promise zone and earns wages during the taxable year equal to or less than forty thousand dollars (\$40,000); and
- (c) "Qualified employer" means an employer operating a facility within the promise zone that had annual gross receipts of three million dollars (\$3,000,000) or less in the immediately preceding calendar year.
- (2) (a) For taxable years beginning on or after January 1, 2017, but before

January 1, 2021, there is hereby created a nonrefundable credit against the tax imposed under KRS 141.020, with the ordering of credits as provided by Section 3 of this Act, for qualified employees.

(b) The tax credit provided by paragraph (a) of this subsection shall be equal to the tax imposed by KRS 141.020 on the wages earned by a qualified employee and paid by a qualified employer.

(c) If the credit is not fully utilized in the taxable year within which the wages are earned, the credit shall not be carried forward or back to another taxable year.

(3) (a) For taxable years beginning on or after January 1, 2017, but before January 1, 2021, there is hereby created a nonrefundable credit against the taxes imposed by KRS 141.020 or 141.040 and 141.0401, with the ordering of credits as provided by Section 3 of this Act, for qualified employers.

(b) The tax credit provided by paragraph (a) of this subsection shall be an amount equal to one hundred dollars (\$100) for each qualified employee.

(c) In the case of a qualified employer that is a pass-through entity not subject to the tax imposed by KRS 141.040, the amount of credit shall be applied against the tax imposed by KRS 141.0401 at the entity level, and shall also be distributed to each partner, member, or shareholder based on the partner's, member's, or shareholder's distributive share of the income from the pass-through entity.

(d) If the credit is not fully utilized for the taxable year within which wages are paid to a qualified employee, the credit shall not be carried forward or back to another taxable year.

(4) The purpose of this section is to stimulate economic activity within the promise zone by providing incentives for:

(a) A business currently located in the promise zone to continue to operate in

the promise zone;

(b) A new business to locate within the promise zone; and

(c) A qualified employee to maintain or seek employment within the promise zone.

(5) Notwithstanding KRS 131.190, beginning December 1, 2018, and annually thereafter as long as the credits are available under this section, the department shall report to the Legislative Research Commission:

(a) The total number of individual income tax returns filed, by year, claiming the credit permitted by subsection (2) of this section;

(b) The total number of business income tax returns filed, by year, claiming the credit permitted by subsection (3) of this section;

(c) The total amount of credits claimed on individual income tax returns and the total amount of credits claimed on business tax returns;

(d) The total number of business income tax returns and the total amount of credit claimed for each county, based on the location of the qualified employer claiming the credit;

(e) The total number of individual income tax returns and the total amount of credit claimed for each county, based on the location of the qualified employee; and

(f) 1. In the case of a taxpayer other than a corporation, based on ranges of adjusted gross income of no larger than five thousand dollars (\$5,000), the total amount of credits claimed for each adjusted gross income range; and

2. In the case of corporations, based on ranges of net income no larger than fifty thousand dollars (\$50,000), the total amount of credit claimed for each net income range.

☐ Section 3. KRS 141.0205 is amended to read as follows:

If a taxpayer is entitled to more than one (1) of the tax credits allowed against the tax imposed by KRS 141.020, 141.040, and 141.0401, the priority of application and use of the credits shall be determined as follows:

- (1) The nonrefundable business incentive credits against the tax imposed by KRS 141.020 shall be taken in the following order:
 - (a) 1. For taxable years beginning after December 31, 2004, and before January 1, 2007, the corporation income tax credit permitted by KRS 141.420(3)(a);
 2. For taxable years beginning after December 31, 2006, the limited liability entity tax credit permitted by KRS 141.0401;
- (b) The economic development credits computed under KRS 141.347, 141.381, 141.384, 141.400, 141.401, 141.402, 141.403, 141.407, 141.415, 154.12-2088, and 154.27-080;
- (c) The qualified farming operation credit permitted by KRS 141.412;
- (d) The certified rehabilitation credit permitted by KRS 171.397(1)(a);
- (e) The health insurance credit permitted by KRS 141.062;
- (f) The tax paid to other states credit permitted by KRS 141.070;
- (g) The credit for hiring the unemployed permitted by KRS 141.065;
- (h) The recycling or composting equipment credit permitted by KRS 141.390;
- (i) The tax credit for cash contributions in investment funds permitted by KRS 154.20-263 in effect prior to July 15, 2002, and the credit permitted by KRS 154.20-258;
- (j) The coal incentive credit permitted ~~by~~under KRS 141.0405;
- (k) The research facilities credit permitted ~~by~~under KRS 141.395;
- (l) The employer GED incentive credit permitted ~~by~~under KRS 164.0062;
- (m) The voluntary environmental remediation credit permitted by KRS 141.418;
- (n) The biodiesel and renewable diesel credit permitted by KRS 141.423;

- (o) The environmental stewardship credit permitted by KRS 154.48-025;
- (p) The clean coal incentive credit permitted by KRS 141.428;
- (q) The ethanol credit permitted by KRS 141.4242;
- (r) The cellulosic ethanol credit permitted by KRS 141.4244;
- (s) The energy efficiency credits permitted by KRS 141.436;
- (t) The railroad maintenance and improvement credit permitted by KRS 141.385;
- (u) The Endow Kentucky credit permitted by KRS 141.438;
- (v) The New Markets Development Program credit permitted by KRS 141.434;
- (w) The food donation credit permitted by KRS 141.392;
- (x) The distilled spirits credit permitted by KRS 141.389;~~[-and]~~
- (y) The angel investor credit permitted by KRS 141.396;and
- (z) *The employer promise zone credit permitted by subsection (3) of Section 2 of this Act.*

(2) After the application of the nonrefundable credits in subsection (1) of this section, the nonrefundable personal tax credits against the tax imposed by KRS 141.020 shall be taken in the following order:

- (a) The individual credits permitted by KRS 141.020(3);
- (b) The credit permitted by KRS 141.066;
- (c) The tuition credit permitted by KRS 141.069;
- (d) The household and dependent care credit permitted by KRS 141.067;~~[-and]~~
- (e) The new home credit permitted by KRS 141.388;and
- (f) *The employee promise zone credit permitted by subsection (2) of Section 2 of this Act.*

(3) After the application of the nonrefundable credits provided for in subsection (2) of this section, the refundable credits against the tax imposed by KRS 141.020 shall be taken in the following order:

- (a) The individual withholding tax credit permitted by KRS 141.350;

- (b) The individual estimated tax payment credit permitted by KRS 141.305;
 - (c) For taxable years beginning after December 31, 2004, and before January 1, 2007, the corporation income tax credit permitted by KRS 141.420(3)(c);
 - (d) The certified rehabilitation credit permitted by KRS 171.3961 and 171.397(1)(b); and
 - (e) The film industry tax credit ~~permitted~~permitted by KRS 141.383.
- (4) The nonrefundable credit permitted by KRS 141.0401 shall be applied against the tax imposed by KRS 141.040.
- (5) The following nonrefundable credits shall be applied against the sum of the tax imposed by KRS 141.040 after subtracting the credit provided for in subsection (4) of this section, and the tax imposed by KRS 141.0401 in the following order:
- (a) The economic development credits computed under KRS 141.347, 141.381, 141.384, 141.400, 141.401, 141.402, 141.403, 141.407, 141.415, 154.12-2088, and 154.27-080;
 - (b) The qualified farming operation credit permitted by KRS 141.412;
 - (c) The certified rehabilitation credit permitted by KRS 171.397(1)(a);
 - (d) The health insurance credit permitted by KRS 141.062;
 - (e) The unemployment credit permitted by KRS 141.065;
 - (f) The recycling or composting equipment credit permitted by KRS 141.390;
 - (g) The coal conversion credit permitted by KRS 141.041;
 - (h) The enterprise zone credit permitted by KRS 154.45-090, for taxable periods ending prior to January 1, 2008;
 - (i) The tax credit for cash contributions to investment funds permitted by KRS 154.20-263 in effect prior to July 15, 2002, and the credit permitted by KRS 154.20-258;
 - (j) The coal incentive credit permitted ~~by~~by KRS 141.0405;
 - (k) The research facilities credit permitted ~~by~~by KRS 141.395;

- (l) The employer GED incentive credit permitted ~~by~~^{under} KRS 164.0062;
- (m) The voluntary environmental remediation credit permitted by KRS 141.418;
- (n) The biodiesel and renewable diesel credit permitted by KRS 141.423;
- (o) The environmental stewardship credit permitted by KRS 154.48-025;
- (p) The clean coal incentive credit permitted by KRS 141.428;
- (q) The ethanol credit permitted by KRS 141.4242;
- (r) The cellulosic ethanol credit permitted by KRS 141.4244;
- (s) The energy efficiency credits permitted by KRS 141.436;
- (t) The ENERGY STAR home or ENERGY STAR manufactured home credit permitted by KRS 141.437;
- (u) The railroad maintenance and improvement credit permitted by KRS 141.385;
- (v) The railroad expansion credit permitted by KRS 141.386;
- (w) The Endow Kentucky credit permitted by KRS 141.438;
- (x) The New Markets Development Program credit permitted by KRS 141.434;
- (y) The food donation credit permitted by KRS 141.392;~~and~~
- (z) The distilled spirits credit permitted by KRS 141.389; and

(aa) The employer promise zone credit permitted by subsection (3) of Section 2 of this Act.

- (6) After the application of the nonrefundable credits in subsection (5) of this section, the refundable credits shall be taken in the following order:
 - (a) The corporation estimated tax payment credit permitted by KRS 141.044;
 - (b) The certified rehabilitation credit permitted by KRS 171.3961 and 171.397(1)(b); and
 - (c) The film industry tax credit permitted by~~allowed in~~ KRS 141.383.

□Section 4. The purpose of this Act is to provide state tax incentives for businesses and employees within the promise zone. During the 2013 State of the Union Address, the President announced the Promise Zone Initiative as part of his plan to create

better local communities in certain economically depressed areas throughout the United States. One of the first zones announced on January 8, 2014, included the southeastern area of Kentucky encompassing the counties of Bell, Clay, Harlan, Knox, Leslie, Letcher, Perry, and Whitley. This Act focuses on the same geographic area by providing state tax incentives, in addition to the loan programs, youth training programs, and access to college and career readiness programs provided by the federal government.